



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 18, 1994

Mr. Paul H. Hayers  
Law Offices of McKelvey & Hayers  
P.O. Drawer 391  
Electra, Texas 76360-0391

OR94-441

Dear Mr. Hayers:

As counsel for the City of Seymour (the "city"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).<sup>1</sup> Your request was assigned ID# 21970.

The city has received an open records request for a certain police offense report of aggravated assault on a police officer. The city has released some of the information; you contend, however, that certain portions of the report should be withheld from the public pursuant to section 552.103(a) of the Government Code (former section 3(a)(3)). We note that the city received a request for the information on August 9, 1993. You requested a decision from this office on August 23, 1993. Consequently, you failed to request a decision within the 10 days required by section 552.301(a) (former section 7(a)) of the act.

Sections 552.301 and .302 (former section 7(a)) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.*

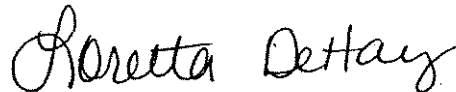
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<sup>1</sup>The Seventy-third Legislature has repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

You have not shown compelling reasons why the information at issue should not be released. The information is therefore presumed to be public and must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Loretta DeHay".

Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/JCH/AMS/rho

Ref.: ID# 21970

Enclosures: Submitted documents

cc: Mr. Bob Bowen  
600 N. Stratton  
Seymour, Texas 76380  
(w/o enclosures)